

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-44039
Issue No.: 2013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 21, 2010
DHS County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 21, 2010. Claimant did not appear. [REDACTED], appeared and testified on Claimant's behalf. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Medical Assistance (MA or Medicaid) benefits to Claimant?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On [REDACTED], Claimant was admitted to the [REDACTED].
2. On May 8, 2009, Claimant applied for Medicaid retroactive to April 2009.
3. On October 9, 2009, Claimant submitted medical records from [REDACTED] to DHS.
4. DHS misplaced or lost Claimant's medical records.

5. On January 6, 2010, Claimant advised DHS that the [REDACTED] records were submitted on October 9, 2009, and asked DHS to notify [REDACTED] if they had not been received.
6. DHS did not respond to this inquiry.
7. On January 26, 2010, DHS denied Claimant's application.
8. DHS stated that the reason for denial of Claimant's MA application was the failure to provide medical records.
9. On January 27, 2010, DHS received a copy of Claimant's medical records.
10. On April 23, 2010, Claimant filed a request for hearing with DHS.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are found online at www.michigan.gov/dhs-manuals.

In this case, I must consider whether DHS followed its policies and procedures when it failed to accept Claimant's medical records on January 27, 2010. I turn to the DHS manuals for the applicable policies and procedures. I must determine first if there is an applicable item, and if there is, to see if it was properly applied.

I find that the first applicable manual section is BAM 105, "Rights and Responsibilities." This policy states at the outset:

RIGHTS AND RESPONSIBILITIES

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

BAM Item 105, p. 1 of 13 (bold print in original).

I find and conclude that DHS failed to protect Claimant's rights when it misplaced or lost Claimant's medical records on or about October 9, 2009. I accept Claimant's credible and un rebutted testimony and accompanying documentation, which establish that Claimant's Mt. Clemens records were submitted on October 9, 2009. I find that DHS failed to process Claimant's application in accordance with policy and procedure, and Claimant is entitled to have his application processed retroactive to April 2009.

I further find that DHS compounded its error when it failed to accept the resubmitted records on January 27, 2010. I find that BAM 600, "Hearings," is the applicable manual section in this case.

BAM 600 states:

HEARINGS

DEPARTMENT POLICY

All Programs

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness. This item includes procedures to meet the minimum requirements for a fair hearing.

Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing. BAM Item 600, p. 1 of 34 (bold print in original).

I find and determine that, in this case, DHS erred in failing to clarify and resolve Claimant's concerns. I find that DHS failed to discover its error of October 9, 2009, and compounded the error by failing to accept replacement copies on January 27, 2010. I find that these steps should have been taken as part of DHS' required effort to clarify and resolve issues before the administrative hearing. *Id.*

I find and decide that DHS is REVERSED in this matter. DHS is ORDERED to process Claimant's Retroactive Medicaid Application in accordance with DHS policies and procedures, and if he is otherwise eligible, to certify Claimant's MA effective April 2009 or other appropriate date.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. DHS is ORDERED to reinstate Claimant's Retroactive Medicaid Application and process the application in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 26, 2010

Date Mailed: October 27, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JL/pf

cc:

